



48 pages  
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Ms. Delores Brown  
Chief, Mitigation and Restoration Branch  
Department of Water Resources  
3251 S Street  
Sacramento, CA 95816

March 27, 2003

Re: Scoping comments for the new court mandated "Monterey Plus" EIR

Dear Ms. Brown:

We would like to take this opportunity to submit scoping comments on the new court mandated "Monterey Plus" EIR. We understand that the PCL v DWR Monterey case has reached a settlement and are aware of the terms of that settlement. It is very critical to us that DWR use accurate baseline information based on the "whole of the action" and that the results are clearly understood by and readily available to the public.

#### Environmental Baseline

As required by the settlement, the EIR must study both the pre-Monterey and present conditions. It is essential that a full analysis of Articles 18(a) and 18(b) be done. Article 21 dealing with surplus water needs to be considered in relation to the Article 18 analysis. As the settlement further provides, a full range of hydrologic conditions must be analyzed in regard to reliability, including the relevant historical period 1991-2002 and the last extended drought from 1987-1992.

#### No Project Alternative

CEQA requires that the no project alternative be analyzed. As the settlement points out, this requires DWR in its new EIR to fully study the consequences of enforcing the terms of pre-Monterey water supply contracts prior to eliminating them.

#### Assessment of SWP Reliability

The settlement requires DWR to publish bi-yearly SWP reliability reports. We are aware of the August 2002 Draft SWP Delivery Reliability Report and comments made about that report. We would like to incorporate the comments of Dennis O'Connor, Robert Wilkinson, Carolee Krieger and Arve Sjovald on this draft reliability report here in our scoping comments and have attached them to this letter so that they will be included in the "Monterey Plus" EIR scoping record. We agree with and share the concerns of the above named commenters.

### **Kern Fan Element**

The new EIR must fully address all of the consequences of the proposed transfer of the Kern Fan Element from DWR to the Kern County Water Agency and its subsequent transfer to the Kern Water Bank Authority. Included in these consequences must be the impact on the SWP from the loss of this facility to improve the reliability of the entire project for all of the contractors. There also must be an analysis of the legal consequences of turning over state property to a joint powers agency that is 48% owned by a private corporation.

### **Water Transfers**

Water transfers are recognized as a constructive approach to water shortages but it is clear that no one benefits if the transfers are of the "paper water" type. Reliability and water transfers are intricately linked and must be analyzed as such. The original 1995 Monterey Amendments allowed any willing seller to sell to any willing buyer without DWR oversight. This must be analyzed for its legal implications in regards to the Burns Porter Act and financial implications to the rate payers as well as the full environmental and social consequences on transferring parties and all affected third parties.

### **Growth-Inducing Impacts**

It is very important that the potential growth-inducing impacts of the new Monterey Plus amendments be analyzed. The court was very clear in recognizing that land-use decisions are dependent on water availability. Land-use planners and the public need to know the growth-inducing impacts of transfers by the contractors and the impacts of sales from the Kern Water Bank.

We would like to incorporate in our comments, the comments submitted by Roger Moore and Antonio Rossmann as well as those submitted by Robert Wilkinson.

Sincerely,

  
Joan Wells

Attachments: Comments on SWP Delivery Reliability Report, 2002 Draft by:  
Dennis O'Connor  
Robert Wilkinson  
Carolee Krieger  
Arve Sjovold